

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
(NORTHERN DIVISION)**

HERMES HIALEAH WAREHOUSE, LLC

PLAINTIFF

v.

CIVIL ACTION NO. 3:22-cv-215-TSL-MTP

GFE NY, LLC

DEFENDANT

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, 28 U.S.C. § 1441, and 28 U.S.C. § 1446, Defendant, GFE NY, LLC (the “Defendant” or “GFE”) removes to this Court the state court action described below.

I. FACTUAL BACKGROUND

1. On March 23, 2022, Hermes Hialeah Warehouse, LLC, a Florida limited liability company (the “Plaintiff” or “Hermes”) filed its *Verified Complaint for Temporary Restraining Order, Injunction, and Discovery* (the “Complaint”) in the Chancery Court of Lauderdale County, Mississippi, in an action entitled *Hermes Hialeah Warehouse, LLC v. GFE NY, LLC*, Civil Action No. 22-256-P (the “State Court Action”). A copy of the Complaint and the entire state court record is attached hereto as **Exhibit “A”**.

2. Through this Notice of Removal, Defendant timely removes the State Court Action to this Court. *See* 28 U.S.C. § 1446(b)(2)(B).

II. BASIS FOR REMOVAL

3. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441,

because (1) the case is a civil action between citizens of different states, and (2) the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

A. Complete Diversity Exists.

As explained in more detail below the Plaintiff, Hermes Hialeah Warehouse, LLC is a multi-member limited liability company whose members are all citizens of the state of Florida. The Defendant, GFE NY, LLC is a multi-member LLC whose members are comprised of citizens of the state of New York, as well as citizens of the foreign countries of Dubai and Israel. Because complete diversity exists, the diversity-of-citizenship requirement is satisfied.

Plaintiff – Hermes Hialeah Warehouse, LLC

4. Hermes Hialeah Warehouse, LLC is a Florida limited liability company. (Complaint, at ¶1). The citizenship of an LLC “is determined by the citizenship of all of its members.” *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

5. The members of Hermes Hialeah Warehouse, LLC are Ted Doukas and his wife, Giselle Teixeira Doukas, both of whom are citizens of the state of Florida (Complaint, at ¶6 and “Verification”).

Defendant – GFE NY, LLC

6. GFE NY, LLC is a New York limited liability company. (Complaint, at ¶2). The citizenship of an LLC “is determined by the citizenship of all of its members.” *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

7. The sole member of GFE NY, LLC is East Hudson Capital LLC (a Delaware limited liability company).

8. The members of East Hudson Capital LLC are Success Capital LLC (a Delaware limited liability company) and Boardwalk 400 LLC (a Delaware limited liability company).

9. The sole member of Success Capital LLC is Lucky Enterprises LLC (a Delaware limited liability company).

10. The members of Lucky Enterprises LLC are Bracha LLC (a Delaware limited liability company) and SYML, LLC (a Delaware limited liability company).

11. The sole member of Bracha, LLC is Boris Musheyev (a citizen of the state of New York).

12. The sole member of SYML, LLC is Viacheslav Eliyayev (a citizen of the state of New York).

13. The members of Boardwalk 400 LLC are Jan Wimpfheimer (a citizen of Israel), Danny Fulda (a citizen of Dubai), and Sunset Key LLC (a Delaware limited liability company).

14. The sole member of Sunset Key LLC is Jan Wimpfheimer (a citizen of Israel).

Complete Diversity

15. Plaintiff, Hermes Hialeah Warehouse, LLC, consists of individual persons who are citizens of the state of Florida

16. Defendant, GFE NY, LLC, consists of individual persons who are citizens of the state of New York, together with individual persons who are citizens of the foreign countries of Dubai and Israel.

17. Accordingly, based on the citizenship of the members of Plaintiff and Defendant, complete diversity exists.

B. The Amount-in-Controversy Requirement is Satisfied.

18. Hermes's Complaint seeks to prohibit a non-judicial foreclosure sale of real and personal property. "[I]t is well established that when equitable and injunctive relief is sought 'the amount in controversy is measured by the value of the object of the litigation,' and '[t]he

value of that right is measured by the losses that will follow.” *Lamarr v. Chase Home Fin., LLC*, 2008 WL 4057301, at *2 (N.D. Miss. Aug. 26, 2008) (quoting *Hunt v. Wash. State Apple Adver. Comm’n*, 432 U.S. 333, 347 (1977); *Webb v. Investacorp, Inc.*, 89 F.3d 252, 256 (5th Cir. 1996)).

19. As alleged in the Complaint, the real property at issue was acquired by a predecessor entity of Hermes at a cost of \$350,000. (Complaint, at ¶5). Thereafter, Hermes allegedly invested \$800,000 in improvements to the real property (Complaint, at ¶¶ 8-9). Thus, the value of the property at issue far surpasses the requisite \$75,000 amount in controversy. *Smith v. Homecomings Fin., LLC*, 2015 WL 3450683, at *3 (S.D. Miss. May 29, 2015) (considering “the value of the real property at issue” in concluding that plaintiffs’ complaint to enjoin foreclosure sale satisfied the amount-in-controversy requirement).

III. COMPLIANCE WITH PROCEDURES OF REMOVAL

20. All Defendants who have been properly joined and served consent to this removal. 28 U.S.C. § 1446(b)(2)(A).

21. Copies of all pleadings received by Defendants in this action are included in Exhibit “A” to this Notice, as required by 28 U.S.C. § 1446(a) and Uniform Local Rule 5(b).

22. Promptly after filing this Notice of Removal, Defendants shall give written notice of the removal to Hermes and to the clerk of the Lauderdale County, Mississippi Chancery Clerk as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant respectfully requests that the action now pending against it in the Chancery Court of Lauderdale County, Mississippi entitled *Hermes Hialeah Warehouse, LLC v. GFE NY, LLC*, Civil Action No. 22-256-P, be removed to the United States District Court for the Southern District of Mississippi (Northern Division), as it is an action properly removable

thereto. Defendant also requests all such other and further relief, legal and equitable, to which Defendant may be entitled.

RESPECTFULLY SUBMITTED, this the 21st day of April, 2022.

GFE NY, LLC

By its Attorneys,
BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC

By: /s/ Alan L. Smith
ALAN L. SMITH

OF COUNSEL:

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CERTIFICATE OF SERVICE

This is to certify that I have this day caused a true and correct copy of the foregoing *Notice of Removal* to be served, via United States Mail (First-Class postage prepaid), and via electronic mail, upon the following:

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COUNSEL FOR PLAINTIFF

This the 21st day of April , 2022

/s/ Alan L. Smith
ALAN L. SMITH